7/7/09 Bd Mtg. Item 9
Landscape Irrigation Permit
Deadline: 6/30/09 by 12 noon

RUSSIAN RIVERKEEPER®

June 28, 2009

The Honorable Charles Hoppin, Chair and Members
State Water Resources Control Board
1001 I Street
Sacramento, CA 95814

VIA ELECTRONICMAIL: commentletters@waterboards.ca.gov

Re: 7/7/09 Board Meeting Agenda Item #9: Landscape Irrigation Uses of Municipal Recycled Water

Dear Chairman Hoppin and Members of the Board,

I am writing on behalf of Russian Riverkeeper and our 1400 members who strongly support protection of endangered salmon and steelhead and water quality in the Russian River and its tributaries. I would like to offer my comments on the Landscape Irrigation Permit (Permit) and am gravely concerned about the 50,000 gallon spill reporting provision in this Permit (pg 21, C-16).

To provide a real-world illustration what 50,000 gallons looks like and its impact, we offer the following pictures of a railroad boxcar and the mainstem of a local urban creek.

50,000 gallons water of water would fill 3 railroad boxcars!!

PO Box 1335 Healdsburg, CA 95448 ❖ 707-433-1958 ❖ Fax 707-433-1989 ❖ info@russianriverkeeper.org

Steelhead bearing Foss Creek averaging 1-3cfs would be overwhelmed by spills over 1,000 gallons so 50,000 gallons would be a disaster for endangered fish.

The first picture above shows a railroad boxcar that is only one-third the amount of 50,000-gallons as 50,000 gallons would fill *three* railroad boxcars! As you can see above the volume of water in Foss Creek is very low at roughly 1-3 cubic feet per second. Foss Creek is typical of Russian River urban creeks during summer when most landscape irrigation would occur and the low-flows offer little dilution to constituents remaining in recycled water. A spill over 1,000 gallons would overwhelm this creek and lead to degradation, 50,000 gallons is a huge amount of water would be disaster. Three boxcars of recycled water hardly fits the stated definition of "incidental" runoff in the Permit as ***"[u]nintended small amounts (volume) of runoff from recycled water use areas, such as over-spray from sprinklers that escapes the recycled water use area."*** (Permit, p. A-2 .)

Our concern is that the spill-reporting limit of 50,000 gallons is not protective of the beneficial uses such as Cold or Rare meant to protect endangered salmon and steelhead. In addition the 50,000 gallon spill reporting limit could contribute to the continuing impairment of our local creeks such as Santa Rosa Creek for nitrate and phosphorous without notification. The largest provider of recycled water in the Russian River, the City of Santa Rosa, has recycled water concentrations of phosphate averaging 1-3mg/L and nitrate averaging 3-7mg/L. In the Ninth Circuit ruling on Friends of Pinto Creek v. EPA it was held no permits may be issued that "cause or contribute" to impaired water quality, we do not believe reporting only spills over 50,000 gallon spill will help compliance with that ruling. Most creeks adjacent to existing landscape irrigation have flows between >1 cfs to 20cfs and allowing spills up to

50,000 gallons to avoid reporting could lead to degradation of water quality and habitat for endangered steelhead. To allow no reporting up to 50,000 gallons is not protective of beneficial uses, which are the backstop of the Clean Water Act.

In the recently approved May 2009 Recycled Water Policy (Policy) that Russian Riverkeeper commented on states on page 8 that:

[i]ncidental runoff may be regulated by waste discharge requirements or, where necessary, waste discharge requirements that serve as a National Pollutant Discharge Elimination System (NPDES) permit, including municipal separate storm water system permits, but regardless of the regulatory instrument, the project shall include, but is not limited to, the following practices:
(1) Implementation of an operations and management plan that may apply to multiple sites and provides for detection of leaks, (for example, from broken sprinkler heads), and correction either within 72 hours of learning of the runoff, or prior to the release of 1,000 gallons, whichever occurs first..."

The 50,000 gallon reporting limit in the revised Permit does not meet the requirements of the State Recycled Water Policy and is in direct conflict with Permit's own O&M requirements on Page C-1:

"(1) Implementation of an operations and management plan that may apply to multiple sites and provides for detection of leaks, (for example, from broken sprinkler heads), and correction either within 72 hours of learning of the runoff, or prior to the release of 1,000 gallons, whichever occurs first,"

Furthermore allowing a 50,000 gallon spill reporting limit would be a disincentive for recycled water users to create effective operations and maintenance programs that meet the 1,000 gallon limit if the user only had to report failures of the O&M plan until spills are larger than 50,000 gallons.

Water Code Section 13529.2 discusses reporting for spills over 50,000 gallons but that section does not imply it as a strict limit for recycled water spills. In subsection 13529.2(e) it states that requirements of that section (including the 50,000 reporting limit) "supplement, and shall not supplant, any other provisions of law". Indeed AB 1481 that created the Landscape Irrigation Permit states clearly that the Permit shall ensure beneficial uses be protected ""modification of the terms and conditions of the general permit . . . as necessary to ensure protection of beneficial uses." (Water Code Sec. 13552.5(a)(4).)

We urge you to reduce the spill-reporting requirement to 1,000 gallons in order to protect beneficial uses and comply with requirement not too contribute to continuing water quality impairments such as excess nutrients. We appreciate your consideration of our comments.

Sincerely,

Don McEnhill
Russian Riverkeeper